

REMARKS

Claims 34-39 and 50 are pending in this application, of which claims 34, 37, and 50 are independent in form. Claims 40-49 and 51 have been withdrawn from consideration in response to a Restriction Requirement. Claim 50 is amended to correct typographical errors. Reconsideration and withdrawal of the pending rejections are respectfully requested in view of the foregoing amendments and following remarks.

Claim Rejections – 35 U.S.C. § 103

Claims 34-39 and 50 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,343, 738 B1 to Ogilvie (“Ogilvie”) in view of U.S. Patent Application Publication No. 2004/0138966 by Kopelman et al. (“Kopelman”). Applicant respectfully disagrees and traverses the rejection, and submits the independent claims, and claims depend therefrom, are patentably distinct from the cited references combined or alone.

Independent claim 34 recites:

“An information processing system capable of sending electronic contents between a buyer-side apparatus and seller-side apparatus via a network, comprising:

first sending means for sending a software program for electronically evaluating the electronic contents to said seller-side apparatus;

first receiving means for receiving an evaluation result evaluated by the evaluating program sent from said seller-side apparatus;

second sending means for sending the received evaluation result to said buyer-side apparatus;

second receiving means for receiving condition of purchase sent from said buyer-side apparatus;

third sending means for sending the received condition of purchase to said seller-side apparatus;

third receiving means for receiving the electronic contents sent from said seller-side apparatus in response to the reception of the condition of purchase; and

fourth sending means for sending the received electronic contents to said buyer-side apparatus.” Applicant submits that the cited references, combined or alone, fail to teach the elements recited in independent claim 34.

Claim 34 in the current invention sets forth an information processing system which requires “sending a software program for electronically evaluating the electronic contents to... seller-side apparatus;” and “sending the evaluation result to said buyer-side apparatus...evaluated by the evaluating program” BEFORE “sending the ... condition of purchase to said seller-side apparatus” and “sending the ... electronic contents to said buyer-side apparatus.” In other words, the seller does not send the electronic contents to the system/buyer when the transaction starts; instead, the seller first receives an evaluation program from the buyer, then sends the evaluation value evaluated by the evaluation program to the system/buyer. After the buyer receives the evaluation value and sends the purchase condition to the system/seller, the seller will send the electronic content to the buyer.

Ogilvie is different. Ogilvie discloses an automatic electronic broker which provides sampling, escrowing and other functions to facilitate transactions of digital goods. First, the seller sends the electronic content in escrow to the automatic broker, then the automatic broker creates a sample of the electronic content, and sends the sample to the buyer (Ogilvie, col.6, Ins.36-50 and Ins.61-62, col.13, Ins. 36-38). The sampling techniques permit the buyer to inspect the goods without thereby making the goods available for use by the buyer without purchase. Payments from the buyer can also be escrowed by the automatic broker. After receiving payment from the buyer, the automatic broker will forward the electronic content to the buyer.

In short, the current invention employs a system where the seller holds the electronic contents and sends only an evaluation value to the system/buyer when the transaction is

first initiated. By contrast, Ogilvie sends the electronic contents to the automatic broker to make a sample for the buyer when the transaction is first initiated.

Kopelman fails to remedy Ogilvie's deficiency. Kopelman discloses a method to price electronic goods. The price or value quoted in the Office Action from [0010] and [0017] of Kopelman is actually a method to derive a price based on comparable goods from competitor websites.

As both Ogilvie and Kopelman fail to disclose at least "sending a software program for electronically evaluating the electronic contents to...seller-side apparatus;" and "sending the evaluation result to said buyer-side apparatus...evaluated by the evaluating program" BEFORE "sending the ... condition of purchase to said seller-side apparatus" and "sending the ... electronic contents to said buyer-side apparatus," the cited references fail to teach all the recited elements of the asserted claims. Similar analyses apply to dependent claims of independent claim 34.

Rejections regarding independent claims 37 and 51, and claims depending therefrom, are traversed based on a similar rational as provided above.

Consequently, the references cited in the office action do not result in the claimed invention, the claimed inventions are not admitted to be prior art.

Finally, there is no motivation in any of the references to combine the types of activities and/or the noted references. Furthermore, even if the references were to be combined, they would not result in the claimed invention as claimed elements would still be missing for the reasons mentioned above. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 1232-4730. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 1232-4730. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
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Dated: November 6, 2006

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